

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

STATE OF IOWA ex rel.  
THOMAS J. MILLER,  
ATTORNEY GENERAL OF IOWA  
99AG25112,

Applicant,

v.

ACTION POINT, LLC,  
an Arizona limited liability corporation; and

ROBERT FOSTER,

Defendants.

Equity No. CE 72150

**PETITION IN EQUITY**

FILED  
POLK COUNTY  
2012 JUL 31 AM 8:01  
IOWA DISTRICT COURT

The State of Iowa ex rel. Attorney General Thomas J. Miller, through Assistant Attorney General Steve St. Clair, states as follows:

**INTRODUCTION**

Action Point, LLC ("Action Point") is a for-profit Arizona business that sells various household items such as trash bags, light bulbs, cleaning supplies and the like from its office in Phoenix, Arizona. Robert Foster owns and ostensibly controls Action Point. The Attorney General has obtained tape recordings of Action Point telemarketers in which the callers claim to be handicapped, disabled, or injured veterans in an effort to evoke sympathy and induce Iowa consumers to place orders and spend more than they might have otherwise for the products in question. The recorded claims of these Action Point telemarketers have been directly contradicted by Mr. Foster, who has stated under oath that none of Action Point's telemarketers or others involved in the operation have any significant disability. In addition, Action Point has stated to the Attorney General's office that its representatives make no claims regarding

disabilities or past military service to encourage sales.

Action Point telemarketers also tell consumers that the company calls only once a year. In fact, Action Point calls customers far more frequently; some elderly Iowans are solicited almost monthly.

Although many Iowans spend considerable amounts in response to a succession of Action Point solicitation calls over relatively short time periods, some Iowans are persuaded to spend large amounts in single transactions. Some elderly Iowans have been persuaded to make single purchases of hundreds of dollars – in one instance, \$2,000.00.

The Iowans from whom Action Point collects large dollar amounts, whether in a single transaction or in a series of transactions, are disproportionately 65 and older, a fact of which Defendants are or should have been aware, given the nature of their marketing. Iowa law provides additional civil penalties for consumer frauds impacting seniors in this manner.

Ruses like this make it harder for fundraising efforts that genuinely seek to benefit veterans and the disabled. Defendants should be restrained from continuing these unlawful practices, should be required to reimburse affected Iowans, and should be ordered to pay civil penalties and attorney fees to the State of Iowa.

## **PARTIES AND VENUE**

1. **Thomas J. Miller** is the Attorney General of the State of Iowa, and is expressly authorized by Iowa Code § 714.16 (6) & (7) (2011) of the Consumer Fraud Act to bring this action on behalf of the State of Iowa.

2. **Action Point, LLC** is an Arizona limited liability corporation.

3. **Robert Foster** owns Action Point, and is identified in Arizona Corporation Commission records as the statutory agent for the company. Mr. Foster responded on behalf of Action Point to a statutory information request under the Consumer Fraud Act, and upon information and belief is the primary person in control of Action Point's marketing and other activities.

4. Venue is proper in Polk County pursuant to Iowa Code § 714.16 (6) & (10).

### **JURISDICTION**

5. The Iowa Consumer Fraud Act, Iowa Code § 714.16 (2)(a) ("the Consumer Fraud Act") provides in pertinent part:

*The act, use or employment by a person of an unfair practice, deception, fraud, false pretense, false promise, or misrepresentation, or the concealment, suppression or omission of a material fact with intent that others rely upon the concealment, suppression, or omission, in connection with the lease, sale, or advertisement of any merchandise or the solicitation of contributions for charitable purposes, whether or not a person has in fact been misled, deceived, or damaged, is an unlawful practice.*

6. Iowa Code § 714.16 (1) provides the following definitions:

*(f) "Deception" means an act or practice which has the tendency or capacity to mislead a substantial number of consumers as to a material fact or facts.*

*(n) "Unfair practice" means an act or practice which causes substantial, unavoidable injury to consumers that is not outweighed by any consumer or competitive benefits which the practice produces.*

7. Iowa Code § 714.16 (7) provides, in pertinent part:

*Except in an action for the concealment, suppression, or omission of a material fact with intent that others rely upon it, it is not necessary in an action for reimbursement or an injunction, to allege or to prove reliance, damages, intent to deceive, or that the person who engaged in an unlawful act had knowledge of the falsity of the claim or ignorance of the truth.*

8. In describing remedies under the Consumer Fraud Act, Iowa Code § 714.16 (7)

provides in pertinent part as follows:

*If it appears to the attorney general that a person has engaged in, is engaging in, or is about to engage in a practice declared to be unlawful by this section, the attorney general may seek and obtain in an action in a district court a temporary restraining order, preliminary injunction, or permanent injunction prohibiting the person from continuing the practice or engaging in the practice or doing an act in furtherance of the practice. The court may make orders or judgments as necessary to prevent the use or employment by a person of any prohibited practices, or which are necessary to restore to any person in interest any moneys ... which have been acquired by means of a practice declared to be unlawful by this section ...*

*In addition to the remedies otherwise provided for in this subsection, the attorney general may request and the court may impose a civil penalty not to exceed forty thousand dollars per violation against a person found by the court to have engaged in a method, act, or practice declared unlawful under this section; provided, however, a course of conduct shall not be considered to be separate and different violations merely because the conduct is repeated to more than one person. In addition, on the motion of the attorney general or its own motion, the court may impose a civil penalty of not more than five thousand dollars for each day of intentional violation of a ... permanent injunction issued under authority of this section.*

9. Iowa Code §§ 714.16A (1) & (3) (2011) provide, respectively:

*If a person violates section 714.16, and the violation is committed against an older person, in an action by the attorney general, in addition to any other civil penalty, the court may impose an additional civil penalty not to exceed five thousand dollars for each such violation.*

*As used in this section, 'older person' means a person who is sixty-five years of age or older.*

Factors to be considered in imposing an additional civil penalty under Section 714.16A are set forth at Iowa Code § 714.16A.2.

#### **FACTUAL BACKGROUND**

10. Defendants place phone calls to Iowans from their business in Arizona to sell various

household and other products, which are then mailed to the Iowa purchasers.

11. Telemarketing scripts purportedly used by Action Point telemarketers when making sales and collection calls to Iowans were obtained by the Attorney General through a Civil Investigative Demand issued pursuant to Iowa Code § 714.16(3).<sup>1</sup> The sales scripts reflect a plea for support to help the caller stay employed, as an “alternate source of income to social security and other government programs,” and the scripts express gratitude to purchasers for their “kindness and generosity.” However, the scripts provided to the Attorney General make no explicit references to Action Point being an organization that employs the handicapped, disabled, or disadvantaged, nor do they reflect an effort to have individual telemarketers refer to being disadvantaged or a military veteran.

12. In November of 2011, an Action Point telemarketer (“Jerry Fry”) directed a solicitation call to an elderly Iowa resident who had made many previous purchases from Action Point. The call was recorded, and a transcript is appended as Attachment I.<sup>2</sup> In this call, the Action Point representative:

- a) identified himself as “that handicapped guy” who sustained shrapnel injuries in his military service in Viet Nam;
- b) indicated that “the majority” of the purchase price of a \$150 Action Point gift certificate would go to him, in the form of shelter, medical assistance, and food.

13. In December of 2011, an Action Point telemarketer (“Bob Williams”) directed a solicitation call to the same elderly Iowa resident who had made many previous purchases from

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<sup>1</sup> Paragraph 18 below provides additional details regarding the response to the Civil Investigative Demand.

<sup>2</sup> The attachments hereto have been redacted to remove consumer name and address information.

Action Point. The call was recorded, and a transcript is appended as Attachment II. In this call, the Action Point representative said he was a fifty-four year old disabled vet, and that he had sustained shrapnel injuries in Viet Nam “way back in the sixties.”<sup>3</sup>

14. Later in December of 2011, an Action Point telemarketer (“Robert Mitchell”) directed a solicitation call to the same elderly Iowa resident. The call was recorded; a transcript is appended as Attachment III, and a copy of the recording as Attachment IV. In this call, the Action Point representative:

- a) referred to himself as “the Iraqi paralyzed veteran”;<sup>4</sup>
- b) referred to the company as “Action Point for the paralyzed veteran, same name for twenty-nine years ...”
- c) said: “Everyone that works at Action Point ... does have a physical disability. Eighty percent of the guys are disabled veterans ...”
- d) stated that “eighty cents of every dollar that people help us with, it comes directly back to us in product and wage.”
- e) stated that “we make a lot of our own products,” including bags and cleaner;
- f) claimed that Action Point had formerly had an office in Des Moines, Iowa;
- g) indicated that the manager would be making a follow-up call “to get you out of my system ... so I do not keep bothering you.”

15. In February of 2012, an Action Point telemarketer (“Bobby Williams”) directed a solicitation call to the same elderly Iowa resident. The call was recorded, and a transcript is

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<sup>3</sup> A 54-year-old man would have been about 12 years old in 1970.

<sup>4</sup> The caller made the quoted reference at the beginning of the recording, as shown on the transcript (Attachment III). However, the process of redacting the first appearance of the consumer’s name from the recording itself deleted the quoted language from the recording appended as Attachment IV. In any event, references to the caller’s being a paralyzed veteran of the Iraq war also appear later in the recording (see Attachments III and IV).

appended as Attachment V. In this call, the Action Point representative:

- a) said he was "with the disabled veterans";
- b) said he was himself disabled, and had served in Viet Nam.

16. In May of 2012, an Action Point telemarketer ("Jerry Fry") directed a solicitation call to the same elderly Iowa resident. The call was recorded, and a transcript is appended as

Attachment VI. In this call, the Action Point representative:

- a) said he was "the handicapped guy," and a veteran;
- b) said that a purchase would help with his "shelter credits";
- c) said that he called only once a year, and implied that he had not called since the previous August;
- d) said "you can donate because it's tax deductible."

17. Later in May of 2012, an Action Point telemarketer ("Phillip") directed a solicitation call to the same elderly Iowa resident. The call was recorded, and a transcript is appended as

Attachment VII. In this call, the Action Point representative:

- a) said he was a handicapped Viet Nam veteran;
- b) stated: "We call once a year."

18. Upon information and belief, the solicitation calls identified above included numerous deceptive and unfair statements; the information upon which this assertion is based includes the following:

a) On May 25, 2012, Action Point, through Robert Foster, provided a sworn response to the Attorney General's Civil Investigative Demand ("CID"); a partial copy of the CID response, without its exhibits, is appended as Attachment VIII. The CID response indicates that:

- i) Action Point was incorporated in Arizona on May 18, 2010;

ii) the list of entities that make the products sold by Action Point did not include Action Point itself;

iii) that the products sold by Action Point are neither made, packaged, handled, nor sent by persons with significant disabilities, and that persons who have significant disabilities have no role in making solicitation calls or in any other aspects of Action Point's operations;

iv) that none of the money a consumer pays for Action Point products goes to help the disabled;

v) that Action Point phone solicitors are not paid commissions;

vi) that a list attached to the response identified the ten Iowans with the highest total spending amounts in response to Action Point solicitations; and

vii) that Action Point recorded all phone calls and retained the recordings for a minimum of two years.

b) In the cover letter that accompanied the sworn CID response, counsel for Action Point stated (*inter alia*):

"Action Point adamantly denies that it has done anything improper in connection with the telephone sales of household products to any citizen of Iowa. Action Point refutes [sic] that its employees tell potential buyers that they are handicapped, disabled, injured or military veterans in order to evoke sympathy to accomplish a sale. Action Point also disputes that [it] uses any sort of misrepresentation, deception or other improper or unfair conduct in connection with a sales presentation."

c) A review of customer records obtained through the CID show that Iowa purchasers are called far more often than "once a year" (Att. VII). For example, one 77-year-old Tipton woman was successfully solicited by Action Point telemarketers nine times in 2011 alone, thus persuading her to spend \$897.10 that year.

d) In response to a follow-up subpoena, Defendants indicated on June 21, 2012 that purchases from Action Point are not tax deductible unless the items are then donated to a charity; that none of the telemarketers reflected in the attached transcripts were known to have any handicap or disability, although some were veterans; and that telemarketer Bob Williams (who claimed to have suffered shrapnel injuries in Viet Nam in the sixties) was born in December of 1957.



19. The telemarketing practices described herein disproportionately impact persons age 65 and older. As part of Action Point's response to the CID, Defendants identified the ten Iowa residents who had spent the highest dollar amounts in response to the company's solicitations, ranging from \$295.80 to \$2,000.00. Of those ten Iowans, nine were age 65 or older. Of those nine, six were age 75 or older.

20. Although many Iowans spend considerable amounts in response to a succession of solicitation calls over relatively short time periods, some Iowans are persuaded to spend large amounts in single transactions. For example, in June of 2010 Action Point's owner, Robert Foster, persuaded an 80-year-old Ames woman to purchase a \$349.90 Action Point gift certificate; in June of 2011 Action Point's manager, Michael Olivas, sold a 91-year-old Waterloo woman a \$200.00 gift certificate; and in November 2011 Action Point telemarketer Tish Johnson sold a \$2,000.00 gift certificate to a 72-year-old Dubuque woman.

21. A temporary injunction should issue restraining Defendants from soliciting payments from Iowa residents in the manner described herein; this restraint should continue through the course of this litigation, and be included in a permanent injunction included in a final judgment or other resolution of this case.

22. Neither all nor any part of the application for injunctive relief herein has been previously presented to and refused by any court or justice. Iowa R. Civ. P. 1.1504.

23. In an action by the state, no security shall be required of the state. Iowa R. Civ. P. 1.207.

#### **CERTIFICATION**

24. In conjunction with the Consumer Fraud Act provisions cited above, Iowa R. Civ. P.

1.1501 *et seq.* provide for entry of temporary injunctive relief. Iowa R. Civ. P. 1.1507 provides that a temporary injunction may issue without notice if the required showing is made, such showing to include a certification by the applicant's attorney as to certain matters. The undersigned certifies as follows:

- a) Delaying injunctive relief by providing advance notice and hearing to Defendant is likely to result in an extended period during which additional consumers are at risk of being unlawfully induced to send money to Action Point, LLC as a result of the misleading and unfair solicitation practices detailed herein.
- b) Continuation of the misleading conduct that Plaintiff seeks to enjoin would foreseeably cause hardship by diverting funds from the often limited household resources of Iowa consumers, particularly elderly consumers, under circumstances in which there is no assurance that losses will be promptly reimbursed, if at all.
- c) The injunctive terms sought by Plaintiff would not halt any legitimate, non-misleading marketing or activities in which Defendant may be engaged. The injunction requested is not such as to "stop the general and ordinary business of a corporation" for purposes of Iowa R. Civ. P. 1.1507.
- d) Given the egregious nature of the telephone solicitations conducted by Action Point, LLC, as described above, any doubt about halting the apparently deceptive diversion of funds from Iowa consumers should be resolved in favor of preventing further victimization.

### COUNT I

#### CONSUMER FRAUD ACT VIOLATIONS

- 25. Paragraphs 1 through 24 are incorporated herein by reference.
- 26. Defendants' marketing practices violate the prohibition of Iowa Code § 714.16 (2)(a) against misleading, deceptive, unfair, and omissive acts and practices, and otherwise violate that provision of Iowa law.
- 27. Although it is not necessary to establish reliance, damages or intent to deceive to obtain injunctive relief or reimbursement under the Consumer Fraud Act (*see* paragraph 7, above),

establishing these factors, particularly intent, is nevertheless relevant *inter alia* to the Court's determination of the appropriate scope of injunctive relief and the appropriate amount of civil penalties. Those acts and practices of Defendants in violation of subsection (2)(a) of the Consumer Fraud Act as alleged in this Count were such as would in fact induce reliance on the part of consumer victims, would in fact cause damage to consumers (and to other charitable organizations and their beneficiaries), and/or were in fact intentional.

## **COUNT II**

### **CONSUMER FRAUDS COMMITTED AGAINST OLDER PERSONS**

28. Paragraphs 1 through 24 above are incorporated herein by reference.

29. On information and belief, Consumer Fraud Act violations for which Defendants are responsible were committed against older persons and give rise to the additional civil penalty provided for in section 714.16A.

## **PRAYER**

Plaintiff prays the Court grant the following relief:

A. Pursuant to Iowa Code § 714.16 (7), and upon further request by Plaintiff addressed to the Court, enter a temporary restraining order and preliminary injunction restraining Defendants and (as applicable) Defendants' directors, officers, principals, partners, employees, agents, servants, representatives, subsidiaries, affiliates, successors, assigns, merged or acquired predecessors, parent or controlling entities, and all other persons, corporations and other entities acting in concert or participating with either or both Defendants who have actual or constructive notice of the Court's injunction, from engaging in the deceptive, misleading, omissive, and unfair practices alleged in this Petition or otherwise violating the Iowa Consumer Fraud Act.

B. Pursuant to Iowa Code § 714.16 (7), after trial on the merits, make permanent the above-described injunctions, expanding their provisions as necessary by including *inter alia* such "fencing in" provisions as are reasonably necessary to ensure that Defendants and other enjoined persons and entities do not return to the unlawful practices alleged herein, or commit comparable violations of law.

C. Pursuant to Iowa Code § 714.16 (7), enter judgment against Defendants, jointly and severally, for amounts necessary to restore to Iowa consumers all money acquired by means of acts or practices that violate the Consumer Fraud Act, and/or to effectuate the charitable giving intended by Iowa consumers in donating such money.

D. Pursuant to Iowa Code § 714.16 (7), enter judgment against Defendants, jointly and severally, for such additional funds as are necessary to ensure complete disgorgement of all ill-gotten gain traceable to the unlawful practices alleged herein.

E. Pursuant to Iowa Code § 714.16 (7), enter judgment against each Defendant of up to \$40,000.00 as a civil penalty for each separate violation of the Consumer Fraud Act.

F. Pursuant to Iowa Code § 714.16A, enter judgment against Defendants, jointly and severally, for an additional civil penalty not to exceed \$5,000.00 for each violation of the Consumer Fraud Act committed against an older person.

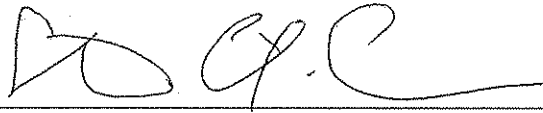
G. Award Plaintiff interest as permitted by law.

H. Pursuant to Iowa Code § 714.16 (11), enter judgment against Defendants, jointly and severally, for attorney fees, state's costs and court costs.

I. Retain jurisdiction for purposes of enforcing any judgment entered.

J. Grant such additional relief as the Court deems just and equitable.

THOMAS J. MILLER  
Attorney General of Iowa

A handwritten signature in black ink, appearing to read 'S. St. Clair', written over a horizontal line.

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ACTION POINT

November, 2011

DONOR: Prospective Donor

CALLER: Jerry Fry

SUPRVSR: Deandre

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DONOR: [NAME]

CALLER: Yes ma'am this is Jerry, you know I called you around back in August, you know to get the gift certificate out to you. And you do remember don't you remember you...uhh...wanna me...uhh myself the credits and I said I was going to get a gift certificate out to you?

DONOR: Well can, can, can you hold on just a second.

CALLER: Yes ma'am.

DONOR: OK, thank you. Well you know I'm really, you know I really can't really remember 'cause I get so many calls...

CALLER: I know but this was back in August. It was August, yeah 22<sup>nd</sup>. I said I was going to send you a hundred and fifty dollar gift certificate, you know from the...your...you know from the brothers here and you know you said you would help me out. What has happened they had ran out of supply of certificates along with the catalogs. And since they do have them I just called to tell you they're going to go ahead and get it right out to you. And you know you can always take care of it today if you'd like to you know by using your credit card or unless you want to do the check by phone.

DONOR: OK. We're going to have to start all over because I'm just, like I said I get so many calls...

CALLER: OK.

DONOR: Now who, who is this?

CALLER: First of all, first of all, this is Jerry Fry. You know I'm that handicapped guy and I called you around in August. And we spoke you know about, you know, the holiday products, you know about the, the household items that I have, trash bags, light bulbs, the cleaner and the best thing that we came up with was you said, would work out for you better would be a gift certificate. So instead of the larger one we got the smaller one out to you, the one hundred and fifty dollar gift certificate but they had ran out of them at the time. So

**ATTACHMENT I**

now they have a supply back and I just called to let you know that it's one the way and they just want to make sure that everything is still correct. You are still at [STREET NAME], is that right?

DONOR: Well no. Umm, I had to move...

CALLER: Oh OK

DONOR: ...and but let me ask you this, first what company are you with?

CALLER: OK I'm the one, I called you from my Action Point.

DONOR: Action Point?

CALLER: Um hum.

DONOR: That's the name of the organization?

CALLER: Yes ma'am and we, we had spoke about your, the, the gift certificate that I was supposed to have gotten out to you.

DONOR: OK. Now...umm...where are you located?

CALLER: Well I'm calling you from right now, I'm in Arizona. In Phoenix, Arizona.

DONOR: In Phoenix, Arizona. And this was Action Point?

CALLER: Yes ma'am.

DONOR: And, and...

CALLER: I'm, I'm, I'm the veteran. They call, it's not that they call me Jerry Fry, you know which I am the handicapped guy here.

DONOR: So you're, you're handicapped, what' your handicap?

CALLER: Yes ma'am I'm one of the Vietnam veterans and you know during the Vietnam war I had a shrapnel injury, you know to my arm...

DONOR: Oh?

CALLER: And I, I really can't type that well but they just, you know they deal with me, you know they've been helping me and this way they make sure I don't make

no mistakes. You know that's why they wanted to make sure the address is still correct, that's why they ask.

DONOR: OK.

CALLER: But what has happened during the time I was going to give you a hundred and fifty dollar gift certificate out to you around in August, the 22<sup>nd</sup>, you know they had ran out of a supply of them along with the catalogs and now they have them back in stock. They just told me to give you a call so they can go ahead and get it over to ya.

DONOR: OK well now, so if I buy this one hundred and fifty dollar gift certificate then how much money goes to you or to the veterans or to the handicapped people?

CALLER: Ya know I, half, half of it goes towards me, you know towards my shelter, also goes towards you know my medical and you know, you know the food and things because see what has happened you know a lot of times you know the veterans who, you know...we came back with a scar...they give us a, a helping hand you know where they provide us with food, shelter, clothing and help for our medical needs.

DONOR: Um hum.

CALLER: And that's what the majority of it goes towards...you know myself.

DONOR: OK, boy...

CALLER: Only, only thing that happened is the supervisor, they'll just call you back. They just want to make sure the address, all of the information I have here is still correct.

DONOR: OK well my address has changed though so you might want to go ahead and put that in.

CALLER: OK, what is that?

DONOR: OK now it's [ADDRESS]

CALLER: OK.

DONOR: [ADDRESS]

CALLER: OK, that still over in [CITY]?



DONOR: No I moved and it's [CITY]. It's [CITY SPELLED OUT]

CALLER: OK.

DONOR: [CONTD. CITY SPELLED OUT]

CALLER: OK.

DONOR: And it's still in Iowa though.

CALLER: OK. And what is, what is your zip code?

DONOR: OK that zip code is [ZIP CODE].

CALLER: OK. OK I got that. OK the number is still [PHONE NUMBER]?

DONOR: Yeah I did get to be able to keep that.

CALLER: That's the number, [NAME]. Thank you, you know supervisor will just call you back, they'll make sure that everything is correct and then they'll ask you if you want to take care of it today by Mastercard or Discover card, VISA or check, check over the phone?

DONOR: Mmmm hmmm...No I won't be able to do that.

CALLER: OK. Well, I'll tell her to put the bill in the box and she'll send it out to you since we have a supply and this way you can go ahead and you know send that back later, OK?

DONOR: OK.

CALLER: OK, you have a one hundred and fifty dollar gift certificate and then we'll get it right out to you. Give her about five or ten minutes to call you right back and again, thank you, you know God bless you.

DONOR: OK.

CALLER: I really appreciate it and I will call you next to just to say hello and thank you very much and I'm Jerry Fry now, OK?

DONOR: OK, bye Jerry.

CALLER: Bye, bye.

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DONOR: Hello?

SUPRVSR: Hello? Hi, good morning [NAME]?

DONOR: Yes.

SUPRVSR: Hi this is Deandre I'm calling back here from Action Point and I see you spoke with one of our workers regarding, uhhh...ordering a gift certificate today?

DONOR: Well you know what, I just really can not afford a hundred and fifty dollars and when I committed to that earlier I just don't know why I would have done that because I just don't have an extra hundred and fifty dollars. What kind of gift certificate was it?

SUPRVSR: It's a gift certificate that would be redeemable for one whole year with us here at Action Point. We send you a product list and because of the Christmas holiday, you could even use the gift certificate and let us know where you want to send the products to.

DONOR: OK well I am still not going to be able to do that. And so you, like I said, I get, I get so many calls and I'm just confused about, I just can't really imagine myself committing to one hundred and fifty dollars. But, do you have anything that's like twenty five dollars that I could at least help you out that way?

SUPRVSR: OK well, could you do at least, umm, maybe a hundred or...

DONOR: Oh no. I'm sorry. That's just way out of my...

SUPRVSR: OK. Can you do at least a fifty?

DONOR: No. Twenty-five, thirty is about the max.

SUPRVSR: Twenty-five, thirty. Wow. OK. And I know you normally do take care of the payment up front, would it help if you could mail back the payment within thirty days?

DONOR: For...what, so what are your going to try, or what am I going to buy for twenty-five dollars?

SUPRVSR: Well the very lowest level of support that we do have here is the fifty dollars.

DONOR: OK. Well can you tell me though, so I've boughten from Action Point before?

SUPRVSR: Um hum.

DONOR: Hmph. Like I said I just get just so many calls and I just get so confused and...umm...this is for the Vietnam Veterans?

SUPRVSR: Well we employ a wide variety of people. We have veterans, we have women in, like, domestic violence shelters that are staying there or just people you know in recovery, people that are having just a rough time, can't find jobs right now so this is how they earn their living for them and their families. You know so that they can be tax payers not tax burdens so we do employ a wide variety of people.

DONOR: OK, are, are you happen to be a volunteer then?

SUPRVSR: No actually I became here, I started out actually being in the recovery program...

DONOR: Um, um hum.

SUPRVSR: And just you know I, I didn't intend to stay very long but you know after you know life hands you what, what happens, I'm still here, you know, and I haven't left since I came to Action Point.

DONOR: Well I would really like to help out but, like I said I just can't afford, afford it, OK?

SUPRVSR: OK. Well what, maybe we can just give you a call back in the new year and see what happens then.

DONOR: OK. Why don't you go ahead and do that.

SUPRVSR: All right [NAME], well thank you for all your past support we wouldn't ever taken you off of our prayer list. I hope you and your family have a blessed holiday here, OK?

DONOR: OK. Thank you.

SUPRVSR: Thank you.

DONOR: Bye.

SUPRVSR: Bye.

ACTION POINT  
December, 2011

DONOR: Prospective Donor

CALLER: Bob Williams

CALLER: ...our phone got disconnected. This is Bob...

DONOR: OK.

CALLER: You're going to get the cookies, right?

DONOR: Well, umm, uh, OK, I get so many calls that I, I don't remember talking to you in September...

CALLER: Um hum....

DONOR: . . . and so you said, so you, OK. Let's start from the beginning. And you're Bob, and your last name?

CALLER: Is Williams.

DONOR: And...

CALLER: Bob Williams.

DONOR: Bob Williams. And you're with what?

CALLER: Action Point.

DONOR: Action Point, that's right. That's right.

CALLER: And you told me to call and wanted the one fifty but you couldn't do that so, and you had told me, I don't know, you know, and what happens is a lot of times it is your name is circulated in the computer here 'cause we do dialers and it came up on somebody's else's but you had told me to call you and the first of December and I wanted to get out the cookies if I could.

DONOR: Umm ... Can, so how much are they, including the shipping?

CALLER: Forty-nine, ninety, ma'am.

DONOR: And that's including shipping?

CALLER: Yes ma'am.

DONOR: OK, can I go ask my husband?

CALLER: Sure.

DONOR: OK, just a minute please. OK, Bob, umm, first I have some questions for you.

CALLER: Go ahead.

DONOR: Where are you located at?

CALLER: I am out in Surprise, Arizona, ma'am.

DONOR: Surprise, Arizona?

CALLER: Yes ma'am.

DONOR: OK.

CALLER: It's a, it's a, it's connected to Phoenix though. I guess you could just say Phoenix 'cause they, you know, it's just the surrounding area but they usually use Phoenix, so . . .

DONOR: Oh, OK, and you said you're a disabled vet?

CALLER: Yes ma'am.

DONOR: What happened?

CALLER: I got wounded. A little, a little shell of shrapnel, back in the day, it's been a long time, ma'am, I'm fifty-four years old so this is way back in the sixties.

DONOR: Oh, so you have trouble walking or . . .?

CALLER: Yeah. Back trouble.

DONOR: Hmm . . . OK.

CALLER: [Mumbling ...]

DONOR: Well, if I were to go ahead and buy the cookies, of the fifty dollars, how much would, where would that money go to?

CALLER: We do eighty percent. This is what it does. We, we stay in the shelter so it goes toward the housing. I do receive, uh, I think it's like forty percent of that goes toward my housing and then I get fifteen percent income out of that and then the rest goes for the telephone usage and stuff like that.

DONOR: Oh! S, then, are you a volunteer?

CALLER: Ma'am?

DONOR: Are you a volunteer?

CALLER: No, ma'am, I'm not a volunteer.

DONOR: OK. OK.

CALLER: No, I actually do this for housing and for income.

DONOR: Oh.

CALLER: This is, you know with the economy being the way that it is it's hard to get a job and everybody has, like yourself, they have some kind of obligation somewhere that they must do, if no more than just support their selves so . . .

DONOR: That's right.

CALLER: This is a means for us, to make, some kind of income and to provide for our housing and stuff like that.

DONOR: OK. Well, go ahead and send out the cookies.

CALLER: OK. Can I ask you a question?

DONOR: Sure.

CALLER: Will you be taking care of this today?

DONOR: No.

CALLER: OK, you wanna, when Deandra calls just tell her to put the invoice in there and you'll send it back after the first of the year.

DONOR: OK, but, I have moved so I don't know if you have my new address.

CALLER: Oh, well, which one, what is it?

DONOR: Now I'm at [PORTION OF ADDRESS].

CALLER: [PORTION OF ADDRESS]

DONOR: [REMAINDER OF ADDRESS].

CALLER: [REMAINDER OF ADDRESS]?

DONOR: Yes.

CALLER: Um hum.

DONOR: And that's [CITY]. And that's [CITY SPELLED OUT].

CALLER: [SPELLING CONFIRMED].

DONOR: Yes.

CALLER: Iowa.

DONOR: Yes.

CALLER: OK. [ZIP CODE]?

DONOR: No, the zip code has changed to, to [ZIP CODE].

CALLER: [ZIP CODE]. OK, I got ya, so it's [FULL ADDRESS]?

DONOR: Yes.

CALLER: All right, and like I said, with shipping and handling and everything, it's the forty-nine, ninety, OK?

DONOR: OK.

CALLER: And then Deandra will call you back in about two to five minutes and just let her know to put the invoice in the box, OK?

DONOR: OK.

CALLER: God bless you and thank you so much.

DONOR: Oh, you're welcome.

CALLER: All right. Bye-bye.

DONOR: Bye.



ACTION POINT

December 2011

DONOR: Prospective Donor

CALLER: Robert Mitchell

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CALLER: . . . Mitchell, [NAME], the Iraqi paralyzed veteran. I was just giving you a quick call ma'am just to let you know those folks were on the way and I did put that block [NAME] like you told me on your number following this order. You did instruct me that this would have to be the final time that you could help. I did put that on my screen ma'am. So after this order, I will not [NAME], be allowed, by law, to call or bother you again...

DONOR: OK. I'm sorry, who is this?

CALLER: Yes ma'am my name is Robert Mitchell.

DONOR: And you're with what company?

CALLER: Yes ma'am this is with Action Point for the paralyzed veteran, same name for twenty-nine years and we put that on the outside of the box, not just the inside you know, so everybody sees the name of the organization where the package is coming from. What's inside the box but more importantly ma'am what we say about the organization because we don't put it on just the outside, I mean the inside, we do put it on the outside as well and people have always respected that about us. If I could try to refresh, you know I don't push you or anything. I had spoke with you originally on the 19<sup>th</sup> of October. At that time, at that time ma'am, you did give me permission for the one order of the bulbs that we replace free for life but I did ask you [NAME] if I could wait until December to actually ship them 'cause we do get double the credit during December and at that time you told me that would be OK but I still promised you [NAME] that I would call you right when I was shipping them ma'am. I just wanted to keep my word with you so I was bothering you today to let you know that I had kept my word and I was shipping just the final order like you told me that I could do...

DONOR: OK, let me go ahead and stop you. You said that you were an Iraqi vet?

CALLER: Yes ma'am. I served two tours. United States Navy. I served proudly on the USS Raleigh stationed out of Norfolk, Virginia and I was a signalman, ma'am.

DONOR: And you're working for Action Point?

CALLER: Yes ma'am. They've hired a lot of us since we came back.

**ATTACHMENT III**

DONOR: And do you have a disability now or...

CALLER: Well I actually, well at the beginning, I am paralyzed ma'am.

DONOR: Hmmmm...Well Mr. Mitchell I get really a lot of calls so I'm not familiar with...uhh...

CALLER: Well you've helped us a lot of times [NAME].

DONOR: OK.

CALLER: Lord knows you did.

DONOR: Um hum.

CALLER: And I truly, truly, am no salesman but I have no reason to fib to you ma'am 'cause that is the main reason that they make us call you back when we are shipping this stuff...we don't...

DONOR: What did I order?

CALLER: Well at that time when I spoke with you, you gave me permission for just the one order of the bulbs, just one dozen. I quoted you one ninety-nine, ninety. That's the total price. As always, when you help us with the bulbs, inside the box with our bulbs, it's the oldest product. The group has been around twenty-nine years and when they started all they had was bulbs. The reason why the bulbs still sell is because when people help us with the bulbs ma'am, in the box, with our light bulbs...we have always given people a written replacement guarantee on our bulbs. Beside being energy savers, so you don't use a lot of electricity, what our guarantee is also said, word for word ma'am, whenever, whenever one of the, if the lights stops burning, all you have to do is throw the bad bulb away. You do not have to send them back like you used to years ago. If you do give us a call they have your own account number, our toll free number. If you call us ma'am we just keep sending you free light bulbs over and over and over again. No questions asked. The 800 number that you would call for replacement is not the sales office, [NAME]. So nobody would beg you or try to get you to buy something else. It is the customer service department and when you call [NAME], they ask you two questions only. How many bulbs do you need? What wattages do you want? And if you use the guarantee [NAME], you do really save a tremendous amount of money 'cause I have had people add this on the phone literally with me, so I know it's the truth and when I say...when I say...when you call for replacements...you know when I say you get free bulbs I mean that literally.

We do not keep charging you a five or six dollar shipping charge every time when you call for replacements...

DONOR: OK, let me go ahead and stop you because, umm...I do not have a hundred and ninety-nine dollars.

CALLER: OK.

DONOR: I don't know why I would commit to that...

CALLER: Well normally, you know you've helped us with the gift certificates before and at that time you said that would be OK. Can...can I ask you this...

DONOR: Um hum.

CALLER: [NAME] 'cause I don't want get you mad, I don't want to try to shove anything down your throat, can I send you a smaller supply 'cause I have...

DONOR: The most, the most I could do...

CALLER: Go ahead.

DONOR: Would be like twenty-five dollars.

CALLER: OK. Can I ask you this [NAME], and...and I'm not fibbing I had something for twenty-five I would take that graciously because I know you don't have to do anything. The least expensive item that we have is ma'am is just for forty-nine, ninety but they're not cheap stuff to get your money...

DONOR: What is it?

CALLER: We...we have, yes ma'am, we have the cookies, they are made by the same people who used to make the fruitcakes for us out of Claxton, Georgia and they're, they're world renowned, the Claxton bakeries but they give us the cookies. They're the big two pound...uh...uh...container, they're not the one pound 'cause they make them for us. What most people have been helping us with...the Macy's people [NAME], they did help us with these duffle bags, the overnight bags. They are very good quality. They are actually made by an athletic company. You may have heard of them, it's called Bum, B-U-M and it's twenty four inches long. It could be used as a duffle bag, a gym bag, overnight bag, it's very big but the thing is, is it's high quality, it's like what you would see at Macy's and we do have the of course, the air freshener, we've always made that ourselves and the Wal-Mart people, they did help us with the kitchen shears. They give you two to the set [NAME] and the reason why a

lot of people like the shears ma'am is because they have the big fat handles. They're very easy to grip and built inside of the handles themselves is a jar opener for hard to open jars...

DONOR: OK and this, these items that you're quoting right now...

CALLER: It would be one of those...

DONOR: ...is for forty-nine ninety five?

CALLER: Forty-nine ninety-two...

DONOR: And that includes shipping?

CALLER: Yep. And I'm glad you mentioned that 'cause a lot of people ask me, they tell me...I know you get other calls 'cause they say some of these other groups they'll, they'll quote one price and then when you get it, it's twenty, it's fifteen or twenty bucks more...

DONOR: Right.

CALLER: We don't do that kind of stuff. The forty-nine ninety [NAME] that I am quoting you...

DONOR: OK.

CALLER: That is to the penny with tax and everything...

DONOR: What I'm going to have to do is go ask my husband, OK? Can you hold on just a minute, please?

CALLER: Take your time [NAME]...

DONOR: OK. Just a minute. Mr. Mitchell?

CALLER: Yes ma'am.

DONOR: Hi I spoke to my husband and he said that I could go ahead and probably get that duffle bag but I just want to know, is everyone who works at Action Point disabled or a veteran?

CALLER: Th-thank you for asking. Everyone that works at Action Point ma'am, does have a physical disability. Uh...eighty percent of the guys are disabled veterans from different eras, you know, as long as you're a disabled veteran

they will hire, you know that's the main thing but they're not going to turn away physically handicapped people who didn't serve in the military so they do that because they try to do you know, the, the first priority obviously is to the veterans but it, it, it, you know, how can you turn away someone who comes you know because it, you have people that didn't serve in the military that are in the same physical condition that I am and if you're a group of, of compassion, how are you going to turn away them just because they're not veterans.

DONOR: Right. So what is, so what is your disability? What happened to you?

CALLER: I do have, well I was hit by ICU in my second tour. That's why I came back but you know I served proudly on the USS Raleigh. I was a signal man. And the type of ship I was on it, it was a transport ship ma'am and the basic purpose of our ship, of course you know...you always, in the Navy, you always, you always travel as task force so you have different ships that carry the war ships, that sort of thing but my ship was a transport ship. We carried the Marines anywhere they needed to go and a lot of times we had to travel with some of them and when ICU hit us, that's how I got my disability...

DONOR: What's an ICU?

CALLER: Well it's like a, it's sort of like a suicide bomber thing...

DONOR: Oh?

CALLER: Yes ma'am.

DONOR: OK. OK.

CALLER: But...

DONOR: So when I, when I buy this from you for forty-two ninety...

CALLER: Well, well forty-nine ninety, yes ma'am.

DONOR: OK. OK. Now how much money do you get?

CALLER: Thank you. Thank you for asking. First of all, we don't get rich off of this stuff ma'am, neither does anybody else but to answer your question [NAME], eighty cents, eighty cents of every dollar that people help us with, it comes directly back to us in product and wage.

DONOR: Wait, so eighty cents of every dollar goes to you?

CALLER: Yes ma'am in product and wage so we... 'cause we make a lot of our own products, you know, some, a lot of the, the big groups they do give us stuff but when they give it to us they give it to us literally. We do not sell other peoples' products but as you know we've always, in the, you know we've always made our bags. We always made our own cleaner, we always, well the GE people they've helped us with the bulbs but for twenty-nine years now but a lot of things that we have here we make ourselves. The other things we have, they're given to us but eighty cents of every dollar that people help us with, it comes to us in product and wage. By that I mean, so we have a decent product to offer, not just something to get money from you and we do earn a paycheck. You know one thing I-I'm proud to say ma'am, and again I don't get rich off of this stuff but [NAME] I am still paying my own taxes. I do not live off your, your taxes or the government and people do respect that about us.

DONOR: OK. Let's see and you are outside of Phoenix, Surprise or Sun, where are you located at?

CALLER: Yes ma'am. We're, well when we started you know they used to have that office in [CITY] but they, you know they used to have offices [NAME], from what I've known 'cause when, when they started the orientation they go back, as far as back to the seventies of when this thing started and you know they had offices in every nook and crannies but I don't have to tell you about the economy. Little by little you know they, they, they had to shut a lot of offices down because they got a lot of cuts and stuff and we don't get help from places like United Way, the Lighthouse For The Blind, the DFW, the VA. All the monies that we have obtained is been monies that we have earned through our own products. We don't call big businesses or corporation so it's from regular people like yourself, who don't have to do it, they do it from the heart. But you know to kind of at least, you know rather than, than to, to, to make a bunch of money, which they've never tried to do, they try to help as many disabled vets and handicapped people as they can.

DONOR: OK. Did you say that you, Action Point had a place in [CITY], Iowa?

CALLER: They had an office in [CITY], Iowa. Yes ma'am.

DONOR: Oh? Do you know what year?

CALLER: For many years.

DONOR: Oh? For many years? Do you know what years?

CALLER: Yes ma'am. Yes ma'am. They had one in, I mean, they used to have one in every, (stammering) there wasn't a state in this union that at one time they didn't have an office, ma'am. So I, I know people a lot of times, you know it's, yeah the regional office has always been in Phoenix. I'm not going to fib to you...

DONOR: Um hum.

CALLER: And people will ask me, you know why do I get all these calls from Phoenix? But just 'cause you're getting calls from Phoenix you still are helping veterans and handicap people from all over the country 'cause they still, they still ship them here you know once they get approved, you know they, they bring them here because this is the main headquarters. This is where it started from. So it's not like they are only helping people in Phoenix, it's not like...uh uh...you know just people from Phoenix. They're calling ya, yes we call you from Phoenix. I'm not going to fib. But you are helping, I'm from New York City originally. I was born and raised in Manhattan ma'am. That's why I was stationed in Norfolk, Virginia 'cause it was the closest naval base...umm...you know to New York. I did my basic training in Orlando, Florida. You know they, they've since, they since shut that down. That just shows you how the economy...now it's a bigger, apartment complex so I hear and it was one of the last, it was the last boot camp that was a co-ed. Usually they used to, they used to send you like, like normally, normally if, if you went to boot camp the guys went to like Great Lakes, you know up in Chicago, Illinois, I should say. But, you take (asbab?) tests and because of my as (sp?) as (sp?) was so high...

DONOR: What's that?

CALLER: I got a... Go ahead.

DONOR: Wait, what's a (asbab?) test?

CALLER: It's like a test of, of your, kind of like what, what you would be suited at in the Navy.

DONOR: OK.

CALLER: And because my scores were pretty high, I was, I was awarded A school. Well which was...uh...it's like a specialty school. It's called an A school because if you don't...normally, you start as a boats' mate in the Navy which is basically mopping and sweeping basically that's what it is. But because my scores were so high I was awarded an A school and I was a signal man which was basically communications...

DONOR: OK.

CALLER: You know like...

DONOR: Well go ahead, you can go ahead, and go ahead and ship that out to me then.

CALLER: Thank you so much.

DONOR: Um hum.

CALLER: And, and you did say the duffel bag?

DONOR: Yes.

CALLER: OK. OK. And [NAME] please thank [NAME] 'cause I know you guys do not have to do this. I know when you do it, it comes from your heart so I don't take that for granted. And I sm humbled by it so please thank him as well.

DONOR: I sure will.

CALLER: I know, I know he could have said no and I, I know you know the procedure. I do this by a machine. I really am a physically, handicapped navy vet. My manager, his name is Michael, he will give you the quick call to get you out of my system ma'am.

DONOR: OK.

CALLER: So I do not keep bothering you. But he will, first of all before they give me my credit make sure that I was truthful and courteous when I spoke. That I did change it from the light bulbs to the duffel bag and that I did quote you, excuse ma'am...

DONOR: Um hum.

CALLER: Excuse ma'am...that I did quote you the total price, forty-nine, ninety, to the penny, OK?

DONOR: OK.

CALLER: And [NAME], do you have any other questions or comments for me at all?

DONOR: No you can go ahead and have your supervisor give me a call back. OK?



CALLER: OK. And hey very quickly I do thank you for everything you do for us. Again, I know it comes from your heart. I thank you so much ma'am from the bottom of mine. And may you and your family please, please have a safe winter and a blessed and prosperous 2012, OK?

DONOR: OK. Thank you.

CALLER: Mike will call you back to make sure I was polite but [NAME]. Happy new year to you and your family, OK?

DONOR: Happy new year to you too.

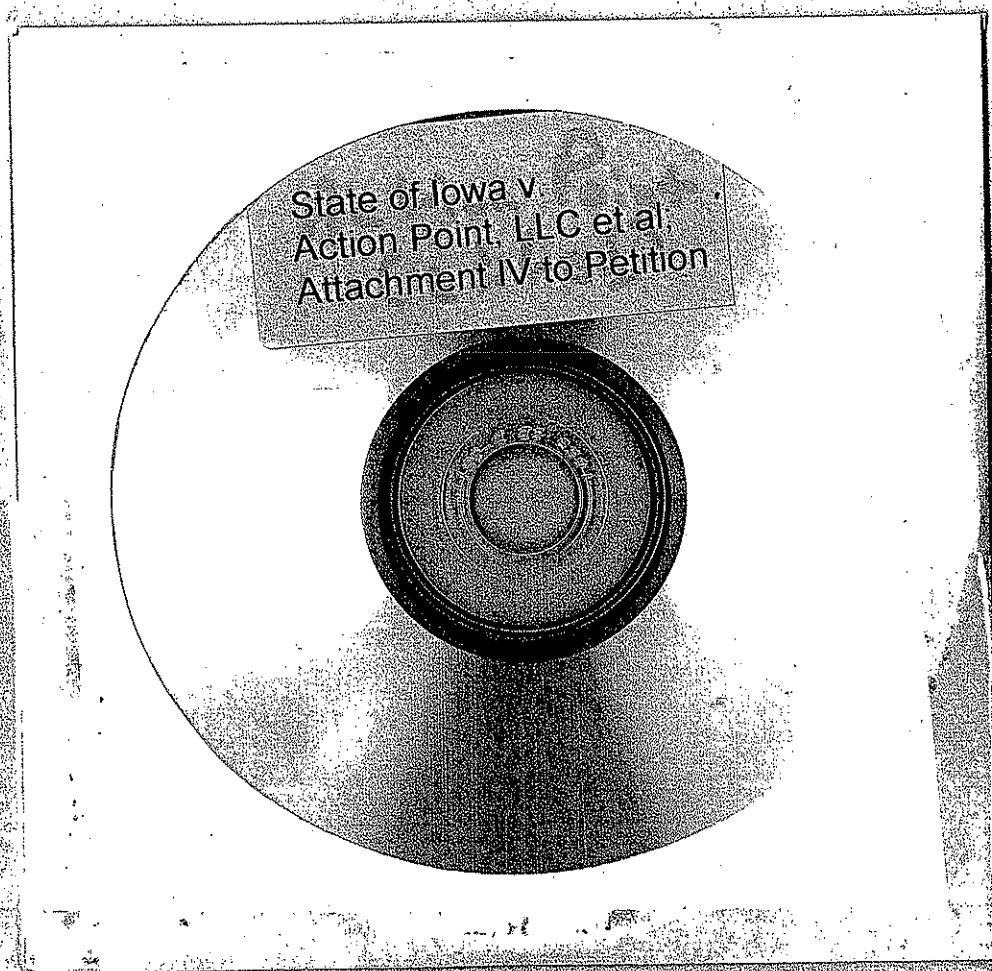
CALLER: And again please tell [NAME] thank you, OK?

DONOR: I sure will.

CALLER: God bless. Bye, bye.

DONOR: Bye.

CALLER: Bye.



**ATTACHMENT IV**

ACTION POINT  
February, 2012

DONOR: Prospective Donor

CALLER: Bobby Williams

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CALLER: Nancy \_\_\_\_\_ ? [INCORRECT NAME]

DONOR: No. [NAME]?

CALLER: Huh?

DONOR: Are you looking for [NAME]?

CALLER: Oh I guess that's who it is.

DONOR: Yes.

CALLER: That's, I dialed the wrong number. This [NAME]?

DONOR: Yes this is.

CALLER: Yeah, this is Bobby. I'm the guy...I put the wrong, your number by Nancy. This is Bobby with the disabled veterans. I'm calling in February. Remember we talked in December?

DONOR: Well I get a few calls Bobby.

CALLER: You didn't write my name down like I asked you to?

DONOR: Oh I may have but I've misplaced Bobby. What's your last name?

CALLER: Williams.

DONOR: Bobby Williams and you're with the disabled veterans?

CALLER: Yep.

DONOR: Hmpf. And you said called me in...

CALLER: And right about two weeks before Christmas.

DONOR: Hmpf.

CALLER: And you told me to call you back actually you told me to call you back in January but I gave you an extra month.

DONOR: Where are you calling from?

CALLER: Action Point.

DONOR: OK, Action Point. Now I, now I remember.

CALLER: Now you got, you found my name?

DONOR: No but now I, I kind of remember Action Point yeah.

CALLER: Yeah. You told me in January actually you would help but, everybody I was talking to in January was having you know right after Christmas so I figured I'd give you to February and see if I could go ahead. You're going to help me out still right?

DONOR: Well I don't know.

CALLER: Why you don't me [NAME]?

DONOR: Because I'm just like my money is really tight now but are you...

CALLER: What we're going to do, listen we don't that seven million dollar order that you normally do...

DONOR: Oh heck no. Heck no.

CALLER: We'll do something small and I tell you what since everything is tight and this is my word to you we'll make this a one time affair. When I take you order up there I'll have Deandra put it in your account only helping out one time this year at Action Point. Would that be fair enough?

DONOR: Well depends. And...so, are you in Phoenix?

CALLER: Yeah, Glendale.

DONOR: Glendale. OK.

CALLER: Yeah pretty much Phoenix area.

DONOR: OK. And so you're disabled?

CALLER: Yeah.

DONOR: Well what happened or what...

CALLER: Back injuries.

DONOR: Back injuries. Oh...

CALLER: Yep I'm sitting here now leaning back 'cause my back is really killing me. I even took a couple of ibuprofen. I gotta go back to the doctor again. Probably in a couple of weeks just to get x-rays and stuff. They don't know what's wrong with it.

DONOR: Are you a veteran?

CALLER: Yeah I am. I served in Vietnam back in the '70s and I'm an old man now. But not a old, old man but, older.

DONOR: (laughs) Well, so, do have anything that is like thirty dollars?

CALLER: [NAME], you know we don't have thirty dollar stuff. I got, I got the two hundred and fifty dollar gift certificate.

DONOR: I'm not going to be able to help you then.

CALLER: OK, well you don't got to do that. I don't have nothing for thirty can you go like...

DONOR: What is your least expensive item?

CALLER: My least expensive item for you...I'm going to give you the least expensive item. I have the cookies, and then two, four, six and eight cans. I'll get you the two cans out.

DONOR: And how much would that be first?

CALLER: With the shipping and handling and everything it's the ninety-four, eighty-five.

DONOR: I can't do it. Will you go ahead and maybe you can try to call me, I just don't have ninety dollars.

CALLER: That's what you do. Can you do the fifty dollars?

DONOR: Umm...let me go ask my husband, OK? Can you hold on just a minute, please?

CALLER: Uhhh...[NAME]?

DONOR: Billy? Hello?

ACTION POINT

May, 2012

DONOR: Prospective Donor

CALLER: Jerry Fry

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CALLER: [NAME]...I'm not calling you to sell you anything but I called you back in August and I was trying to get the gift certificate out to you but they didn't have them in stock and they just wanted to call to make sure you know you're \_\_\_\_\_ you are still on [ADDRESS], right?

DONOR: No and I don't have, I don't have, umm...however much money those gift certificates cost.

CALLER: Well let me do something small because...

DONOR: First, stop, stop.

CALLER: OK.

DONOR: Who is this?

CALLER: Jerry, you know the, the handicapped guy. You know I called you in August, a little bit after my birthday...

DONOR: Well now wait, who are you with?

CALLER: I'm the one that'll call you from Action Point.

DONOR: OK, well I get a lot of calls so I'm not familiar with you.

CALLER: OK, [NAME], let me say to you, it was August the 22<sup>nd</sup> and you was going to help me out with the gift certificate but I guess they didn't have them in stock at the time or you couldn't afford it but either way, let me go ahead and get something small out to you and I won't call you no more until next spring. Please ma'am, I do, it'll help me with my shelter credits. You know I kept my word and I called you, I didn't bug ya...

DONOR: OK, what is this for?

CALLER: It was a gift certificate. They were sending you a catalog, where you had, for you to order what you wanted to order.

DONOR: No, why am I giving money?

CALLER: Well you know just to help me out. I'm the veteran over here and what they do, you know with my own, your support, they help me, you know have me a place instead of being in a shelter, they help me out in an apartment and a home and I don't have to worry about you know begging or borrowing. They help me out with your support and I just get a chance to call you know, once a year. Now I did call you back in August, August the 22<sup>nd</sup> where you, where you helped me out at that time with the gift certificate but I guess they didn't get it out to you. They had ran out of them. Can I give, go ahead and get something smaller out to you. It was a \$150 gift certificate but I can, I can also, if you would give a hundred dollars, would that be better? A gift certificate...

DONOR: Oh no, no, no, no. No, no.

CALLER: ...can you do a fifty dollar gift certificate?

DONOR: So, no. No but let me ask you. So how, how does, if I give to say OK maybe fifty dollars, how much goes to you and then how does the money get back to you?

CALLER: The money get backs to me you know because they...umm...they help me with my shelter credits. You know I have to pay you know a few dollars maybe four or five dollars just for using the phone you know in order to send out the calls but other than that the money goes to me. It helps me with my shelter credits. Help me, help me with a place to stay. And I almost got enough support where I can go ahead and get an apartment. I don't have worry about the shelter. I'd be you know, on my own again.

DONOR: OK. So, you said you're a veteran?

CALLER: I am a Vietnam veteran. And you know...you know...I've been going through a lot you know...made me feel blessed...but I've been going through a lot but yet I'm still I'm blessed I'm still here and they gave me an opportunity to really have a suction on my life again.

DONOR: Well Jerry, what's your last name?

CALLER: Jerry Fry. You know I'm the handicapped guy. I'm one of the Vietnam veterans and I was doing the Tet Offensive. I don't know how old you are you know whether you were just a baby then, but I

was over there when them, they had the Tet Offensive; and overran the flight line.

DONOR: Oh I'm sorry, over in the what?

CALLER: I, I, when they, when they came over the flight line, they had, it was the, it's the Tet Offensive. It's the Viet-Vietnamese holiday. You know when they had the war and they overran the flight line. You know when it's over there.

DONOR: Hmpf.

CALLER: I was one of the very few and I'm, I'm here. I'm blessed.

DONOR: Hmpf. And where are you located?

CALLER: Right now I'm calling you from Arizona, Phoenix.

DONOR: Hmpf. Well what is your least expensive item?

CALLER: The most, the less expensive item?

DONOR: Um hum.

CALLER: It's the fifty dollar gift certificate. That's the less expensive item.

DONOR: Oh I'm sorry, well, huh (sigh). Let me, let me go ask my husband. Just a minute please.

CALLER: OK, Ok, thank you.

DONOR: Jerry?

CALLER: Yes ma'am.

DONOR: Well, we really don't need a gift certificate and...

CALLER: Could I get an air freshener or are you, are you guys diabetic?

DONOR: No we're not diabetic but...

CALLER: I have cookies, butter or Danish, either, either...

DONOR: How much is the air freshener?



CALLER: Well, forty-nine, ninety.

DONOR: I can't, I really can't do anything...

CALLER: ...everything...

DONOR: I can't do anything more than forty.

CALLER: Well OK, what I meant to say it's only forty-nine, ninety. Just a few more dollars, shipping and handling. Not a penny more. Not a penny more.

DONOR: No, I'm sorry. I said...

CALLER: What, you said you couldn't do no more than forty?

DONOR: Right.

CALLER: Let me see. OK, so what they cookies...

DONOR: Well how much is the air freshener?

CALLER: The same thing.

DONOR: Umm...I really don't need cookies. I'll take the air freshener for...

CALLER: OK they have that in the spearmint, they also the cinnamon, potpourri, lemon, honey suckle and the vanilla.

DONOR: I want to try the lemon 'cause I got the honey suckle I think one time from you guys.

CALLER: OK. OK. And again listen thank you and your husband. I know you don't have to but thank you and God bless you. The supervisor they just call you back. Now if you don't want to take care of it today by credit card or check tell them to put the bill in the box and just send it back in a while.

DONOR: Well can I ask you a question though. So this is forty dollars you said?

CALLER: Well you know they going to say the shipping and handling is forty nine, ninety. I mean just a few more dollars and I mean I won't bug ya

no more. I mean I called you, I asked you and I know I'm taking up your time...

DONOR: Well no because that's not, that's not, OK, you were going to send me a fifty dollar gift certificate and then I said I couldn't, I couldn't afford that and then it's forty nine dollars, that only one penny less, or one dollar less.

CALLER: Forty-nine, ninety. Yes ma'am. The fifty dollars...

DONOR: It's only ten cents less.

CALLER: I'm sorry?

DONOR: It's only ten cents less.

CALLER: OK yes ma'am. The forty, the forty, I mean the fifty dollar gift certificate it has the catalog. I mean you can donate 'cause it's tax deductible.

DONOR: No.

CALLER: Also...

DONOR: I can't, I can't do forty-nine ninety-five.

CALLER: Forty-nine, ninety. I didn't say forty-nine ninety-five but that's with shipping and handling included. That's all it is. But that's everything included. Not a penny more.

DONOR: No.

CALLER: I mean other than a postage, post office...

DONOR: I'm sorry.

CALLER: OK you said you can do forty dollars?

DONOR: Forty dollars. Total.

CALLER: Let me, let me, hold it. Let me see what they say, OK?

DONOR: Um hum.

CALLER: Let me ask. Hold on, let me see what the supervisor will say.

DONOR: Sure.

CALLER: Hold on. Hey Deandra, Deandra... Hold on. Bear with me.

DONOR: Sure.

CALLER: Hello ma'am?

DONOR: Yes.

CALLER: Was you going to pay for it today?

DONOR: No I can't. You'd need, you would need to bill me. I can't do credit card.

CALLER: I can bill you but like I said with shipping and handling, just a few more dollars you know not a penny more. I know if I said a hundred and fifty, I can understand but just a few more dollars. Forty-nine ninety, now they're trying to help me with shelter, that's all it is. Other than that I wouldn't even have, what you know, still, I'm asking you, could you do that. This last time and I won't, I won't bug you know more.

DONOR: Jerry, I said I can't over forty.

CALLER: OK, not a problem. Thank you. Bye bye.

ACTION POINT

May, 2012

DONOR: Prospective Donor

CALLER: Phillip

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CALLER: ...recognize your voice, I'm sorry. It's been a year. This is your favorite handicapped veteran. You know Vietnam veteran. You helped me out in April of last year. That was a little over a year ago. We call once a year. We was calling to see if we can count on your support the one time this year. You don't have to pay for anything until the end of June so it gives you like a month and a half. Could I tell you about the new products?

DONOR: Umm...First, umm...what was your name?

CALLER: Phillip. P-H-I-L-L-I-P.

DONOR: And you're with whom?

CALLER: It's called Action Point.

DONOR: OK and...

CALLER: Looks like you got the, the, the all purpose cleaner.

DONOR: OK. And I've given or I bought stuff before or given before?

CALLER: Yes ma'am. It says here April the 20<sup>th</sup> of last year. So that was a year and one month ago and you got the all purpose cleaner.

DONOR: Oh OK. Hmpf. I get a lot of calls so I don't really remember. Umm...

CALLER: Well it might help you to remember me, not to keep you on the line or anything but I'm the good looking one.

DONOR: Hmpf. But listen, where are you located?

CALLER: Phoenix, Arizona.

**ATTACHMENT VII**

DONOR: OK. OK. Well what is your least expensive item first?

CALLER: OK, let's see here...trying to find something small. Let's see here, we got, of course the energy efficient light bulbs and the trash bags and the freezer bags. We have our Bibles with the large print. We have our scented candles, ladies like those. We have our seven piece kitchen and towel sets. Let's see here, we have our wind chimes and we have the twenty-four piece Tupperware set to keep your food fresh...

DONOR: OK. What is your least expensive item?

CALLER: That's the pepper spray for your protection. The American flag...

DONOR: OK, how much is it though?

CALLER: Shipping, handling, tax and everything is included is sixty-nine ninety.

DONOR: OK I can't do really more, anything than thirty.

CALLER: Oh, we don't have anything that small.

DONOR: OK.

CALLER: Is there a better time we can call you back?

DONOR: Umm...you might try maybe back oh in six months or so.

CALLER: Aah...OK, thank you.

DONOR: Um hum, bye.

IOWA CID

EQUITY NO. CE71341

INFORMATION AND DOCUMENTS SOUGHT

1. BACKGROUND INFORMATION ON RESPONDENT
  - A. DATE & STATE OF INCORPORATION – ARIZONA MAY 18<sup>TH</sup> 2010
  - B. IDENTITY OF ALL PEOPLE IN CHARGE INCLUDING MANAGERS AND OWNERS WITH DATES  
ROBERT FOSTER OWNER 5/18/2010 TO PRESENT , MICHAEL OLIVAS MANAGER 10/15/2010  
TO 01/27/2012
  - C. IDENTITY OF ALL PERSONS WITH OWNERSHIP INTEREST ROBERT FOSTER
  - D. ADDRESS OF RESPONDENTS HOME OFFICE & ALL OTHER OFFICES AND DISCRIPTION OF  
WHAT CAN BE FOUND AT EACH ADDRESS. 3118 WEST THOMAS RD SUITE 701 PHOENIX,  
ARIZONA 85017 AND YOU WOULD FIND A CALL ROOM A COLLECTIONS ROOM, A COUPLE OF  
OFFICES FOR ADMINISTRATION, A RECEPTION AREA AND A WAREHOUSE WITH PRODUCTS  
AND PACKING MATERIALS
  - E. IDENTITY OF EACH FACTORY, WORKSHOP, AND/OR BUSINESS THAT MAKES THE  
PRODUCTS SOLD. ENVIROSAFE SOLUTIONS, ACE PACKAGING OF ARIZONA, LIGHTING  
UNLIMITED, WALMART, WALGREENS, FAMILY DOLLAR, 99 CENT ONLY, FALLAS DISCOUNT  
STORE, COSTCO, ICYDEALS, ALLSTAR EMBROIDERY, AA UNLIMITED, SURVIVAL SUPPLY,  
POWER SOLVE, DOLLAR TREE, EXTREME LIFESTYLES, WWW.PAPERCARDS.COM, FRYS,  
GENUINE FIRST AID, IKEA, WHOLESAL4 U, AND ANCO ENTERPRISES
2. PROVIDE A COMPLETE AND FULLY LEGIBLE EXEMPLAR OF EACH DIFFERENT LETTER, INVOICE,  
COLLECTION NOTICE , PAYMENT REMINDER, PACKING SLIP AND/OR OTHER MAILING SENT OT  
ONE OR MORE IOWA ADDRESSES, SPECIFYING, SEPARATELY FOR EACH SUCH EXEMPLAR, THE  
PERIOD OF TIME DURING WHICH IT WAS USED. WE HAVE ONLY USED AN INVOICE AND A  
COLLECTION LETTER WHICH HAVE REMAINED THE SAME WITHOUT ANY CHANGES. SEE  
ATTACHED EXHIBITS 1 AND 2.
3. PROVIDE A COPY OF EACH DIFFERENT SCRIPT EVER USED BY RESPONDENT IN CONNECTION  
WITH SOLICITATION CALL DIRECTED TO IOWA RESIDENTS, SPECIFYING THE PERIOD EACH  
SUCH SCRIPT WAS USED AND IDENTIFYTING THE PRIMARY AUTHOR OF EACH SCRIPT. SEE  
ATTACHED EXHIBITS 3, 4, 5, 6 AND 7.
4. DESCRIBE IN DETAIL THE EXTENT TO WHICH PRODUCTS SOLD BY RESPONDENT ARE:
  - a. PRODUCTS MADE BY PERSONS WHO HAVE SIGNIFICANT DISABILITIES. NO
  - b. PACKAGED BY PERSONS WITH WHO HAVE SIGNIFICANT DISABILITIES. NO
  - c. HANDLED OR SENT BY PERSONS WHO HAVE SIGNIFICANT DISABILITIES. NONE

5. DESCRIBE IN DETAIL THE EXTENT TO WHICH SOLICITATION CALLS OR ANY OTHER ASPECTS OF RESPONDENTS OPERATIONS ARE CONDUCTED BY PERSONS WHO HAVE SIGNIFICANT DISABILITY. NONE
6. INDICATE THE PERCENTAGE OF A PAYMENT THAT GOES TO HELP THE DISABLED. NONE
7. IDENTIFY ALL IOWA RESIDENT WHO HAVE MADE A PURCHASE.
  - A. DATE OF THE PURCHASE; SEE ATTACHED EXHIBIT 8
  - B. WHAT WAS PURCHASED; SEE ATTACHED EXHIBIT 8
  - C. THE AMOUNT SPENT; SEE ATTACHED EXHIBIT 8
  - D. WHETHER THE PURCHASE WAS SOLICITED THROUGH AN OUTBOUND CALL; YES OUTBOUND SALES CALL, AND, IF SO, THE NAME OF THE CALLER SEE ATTACHED EXHIBIT 8 UNDER THE HEADING REP. AND THE AMOUNT OF ANY COMMISSION THE CALLER RECEIVED. THE REP IS NOT PAID A COMMISSION.
8. IDENTIFY THE 10 PERSONS WITH IOWA ADDRESSES WHO HAVE SPENT THE HIGHEST TOTAL DOLLAR AMOUNTS FOR RESPONDENTS MERCHANDISE. SEE ATTACHED EXHIBIT 9
9. DESCRIBE THE EXTENT TO WHICH RESPONDENTS RECORDS SOLICITATION CALLS, AND RESPONDENTS PRACTICES AND POLICIES RELATING TO HOW LONG SUCH RECORDINGS ARE RETAINED. NO POLICIES HAVE CHANGED AND ALL PHONE CALLS ARE RECORDED. THE RECORDINGS ARE RETAINED FOR A MINIMUM OF TWO YEARS.
10. SEPARATLY IDENTIFY THE PERSON PRIMARILY RESPONSIBLE FOR RESPONDING TO THIS CID; AND THE PERSON SIGNING THE RESPONSES TO THIS CID ON BEHALF OF THE RESPONDENT.  
ROBERT FOSTER

OATH OF AUTHORIZED REPRESENTATIVE OF RESPONDENT

I, Robert Foster, certify under penalty of perjury that the answers submitted by me to the preceding Civil Investigative Demand and Notice of Intent To Proceed are true and complete to the best of my knowledge.

Dated this 22 day of may, 2012.

Robert Foster

Subscribed and sworn to before me this 22 day of may, 2012

[Signature]  
Notary Public

